

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
EASTERN DIVISION

FILED BY SP D.C.  
05 APR 18 PM 1:25

ROBERT R. DI TROLIO  
CLERK OF U.S. DIST. CT.  
W.D. OF TN. JACKSON

CALVIN O. TANKESLY, JR.,

Petitioner,

VS.

No. 04-1320-T/An

STEPHEN DOTSON,

Respondent.

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ORDER GRANTING LEAVE TO PROCEED *IN FORMA PAUPERIS*  
AND  
ORDER TRANSFERRING CASE PURSUANT TO 28 U.S.C. § 2241(d)

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Petitioner Calvin O. Tankesly, Jr., Tennessee Department of Correction (“TDOC”) prisoner number 90944, an inmate at the Whiteville Correctional Facility (“WCF”) in Whiteville, Tennessee, filed a *pro se* petition pursuant to 28 U.S.C. § 2254 on December 7, 2004, along with an application to proceed *in forma pauperis*. Based on the information set forth in the petitioner’s affidavit, the motion to proceed *in forma pauperis* is GRANTED. The Clerk of Court shall record the respondent as WCF Warden Stephen Dotson.<sup>1</sup>

Twenty-eight U.S.C. § 2241(d) provides:

Where an application for a writ of habeas corpus is made by a person in custody under the judgment and sentence of a State court of a State which

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<sup>1</sup> Although the petition lists TDOC Commissioner Quenton White as an additional respondent, the proper respondent to a habeas petition is the warden of the facility in which the petitioner is incarcerated. See Rumsfeld v. Padilla, 124 S. Ct. 2711, 2718 (2004). The Clerk is directed to remove White as a party to this action.

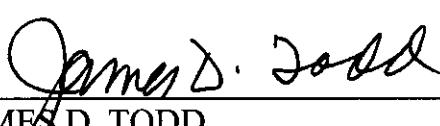
contains two or more Federal judicial districts, the application may be filed in the district court for the district wherein such person is in custody or in the district court for the district within which the State court was held which convicted and sentenced him and each of such district courts shall have concurrent jurisdiction to entertain the application. The district court for the district wherein such an application is filed in the exercise of its discretion and in furtherance of justice may transfer the application to the other district court for hearing and determination.

It is the practice of the federal district courts in Tennessee that all § 2254 petitions are to be heard in the district in which the conviction was obtained.

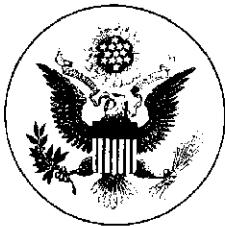
In this petition, Tankesly is challenging a conviction and sentence that was obtained in the Davidson County Criminal Court. Davidson County is in the Nashville Division of the Middle District of Tennessee. 28 U.S.C. § 123(b)(1).

Therefore, this case is hereby TRANSFERRED, pursuant to 28 U.S.C. § 1406(a), to the Nashville Division of the Middle District of Tennessee.

IT IS SO ORDERED this 18<sup>th</sup> day of April, 2005.

  
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JAMES D. TODD  
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT - WESTERN DISTRICT OF TENNESSEE



## Notice of Distribution

This notice confirms a copy of the document docketed as number 3 in case 1:04-CV-01320 was distributed by fax, mail, or direct printing on April 19, 2005 to the parties listed.

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90944  
P.O. Box 679  
Whiteville, TN 38075

Honorable James Todd  
US DISTRICT COURT